

SENATOR HALL: Question.

SPEAKER BARRETT: Won't be necessary, yours was the last light. Who will be closing? Senator Landis.

SENATOR LANDIS: Mr. Speaker, members of the Legislature, let me just read into the record a piece that we thought was important to receive into the record. A municipality acts in a legislative capacity when setting natural gas rates. Legislative acts are presumed valid. Generally courts will not inquire into the motive, policy, wisdom or expediency of legislative acts. However, utility rates must be fair, reasonable and compensatory, and must not be arbitrary, unreasonable or confiscatory. An appeal on error proceeding does not lie purely from a legislative act, only from a judicial or quasi judicial act. A municipality's legislative action in setting natural gas rates is subject to judicial review only through collateral attack by an injunction act to determine whether the rates are fair, reasonable and not confiscatory. A court may not determine utility rates. A court may only judge whether the municipality acted within the scope of its legislative authority. This Municipal Natural Gas Regulation Act is intended to provide a framework within which municipalities can regulate, determine and fix natural gas rates. A utility desiring judicial review of a municipalities action in setting natural gas rates is entitled to seek an injunction from the district court in Lancaster County. The district court will conduct a de novo review of the municipalities action determining utility rates. Within the context of judicial review, this act also provides appeal right for a utility from the judicial or quasi judicial decisions of the municipality under certain sections of the bill. Authorities relied for, by the way, in our thinking and development of the bill include Reimers v. K-N Energy, Inc. 223 Neb. 142, 1986, Williams v. County of Buffalo, 181 Neb. 233, 1967, and Kansas-Nebraska Natural Gas Company v. City of Sidney, 1986 Nebraska 168, 1970. Let me conclude by thanking those who worked hard on the bill, Derek Dollen, Doug Huber, Dave Chambers, Dave Potak, Doug Curry, Larry Voss, Larry Hall, Bud Madigen, Jerry Quick, Ev Hought, Dick Ellingson, Tracey Bridge, Paul O'Hara, and a special thanks to Bill Stadwald of the Urban Affairs staff. Thank you. With that, I would ask for the adoption of the amendment.

SPEAKER BARRETT: Thank you. The question is the adoption of the Landis amendment to LB 663. All in favor vote aye, opposed